

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

In the matter of)	
)	
2005/2006 U.S.-CHINA SERVICES)	Docket OST-2004-19077
CASE AND DESIGNATIONS)	
)	

**ANSWER OF DELTA AIR LINES, INC.
TO OBJECTIONS**

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September 14, 2004

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Delta Air Lines, Inc. ("Delta") will be an applicant for a combination service designation and related frequencies in the *2005/2006 China Air Services Case*. The new U.S.-China opportunities are critically important to injecting new service and competition in the highly restricted U.S.-China marketplace -- which has not experienced new entry by a U.S. flag passenger carrier in more than two decades.

Delta hereby responds to the Objections of American Airlines, Inc. ("American") and Evergreen International Airlines, Inc. ("Evergreen") with regard to procedures and evidence to be used by the Department:

1. Consolidated versus separate 2005/2006 proceedings.

Delta agrees with the procedure set forth in the Instituting Order that would award both the 2005 and 2006 designations and frequencies in a single,

consolidated case. The Department will have before it all facts and evidence relating to proposals for both 2005 and 2006, and will be able to make an informed decision to select complementary proposals that will maximize the combined benefits of all available opportunities.

Moreover, a consolidated proceeding will be more efficient and less burdensome on the Department and prospective applicants. There are unique challenges associated with entering a long-closed market such as U.S.-China, and early selection is critical to preparations for new entry and advance marketing efforts. Time is already drawing critically short for implementation of the 2005 opportunity; and, if the Department were to conduct separate proceedings, a new case would have to be commenced virtually on the heels of the 2005 allocation to provide adequate lead for the 2006 opportunity. As such, there is virtually nothing to be gained by the more complicated two-step process advocated by Evergreen. By combining the awards, the Department can achieve an optimal distribution of services and maximize carrier planning and marketing opportunities.

2. Combination versus Cargo Selection.

There is demonstrably greater need for new combination service than for all-cargo. Indeed, while the U.S.-China marketplace has not seen *any* new entry for U.S. flag passenger service in more than *20 years*, the Department has

awarded *two* all-cargo designations in the last *four* years. *See*, Order 2004-9-4; Order 2001-1-6.

FedEx, UPS and now Polar are each designated to provide all-cargo service and, in addition, Northwest operates dedicated all-cargo aircraft. With four all-cargo competitors, compared to just two passenger competitors (Northwest and United), it is clear that U.S.-China shippers have far greater service and competitive options than do passengers. Moreover, any newly designated combination carrier will be able to provide *both* passenger and freight service.

In these circumstances, the Department would be well justified in finding that the public interest clearly requires additional combination service in 2006 – and, accordingly, to entertain applications in this proceeding only for combination service. Evergreen argues that the Department should streamline selection for the 2006 designation by deciding first, what type of service is needed; then, secondly which specific carrier to authorize. Given the current and obvious imbalance in favor of all-cargo service, Delta believes that the Department can and should find upon reconsideration additional combination service is most needed in 2006, thereby alleviating the “free for all” of entertaining superfluous all-cargo applications.

3. Application Requirements.

Carriers at the initial application stage should be required to provide, at minimum, the city-pairs to be served. The Department has traditionally allowed refinements of service proposals through the Direct Exhibit stage, and there is no reason to adopt a more rigid requirement here. However, all interested parties should know the relevant U.S. gateways and proposed China service points.

4. Forecast Year(s).

The Department is awarding two separate designations that are available for service in two distinct service years – 2005 and 2006. In multi-year proceedings, the Department has always required two separate traffic year forecasts. *See, e.g. 1999 U.S.-Argentina Combination Service Case*, Order 99-11-14, Evidence Request n.5: “Carriers desiring the Phase 2 frequencies **should also provide a separate traffic forecast** for [year two].” (emphasis added). The Department should continue to follow that precedent here.

Delta objects to American’s proposed shortcut of requiring applicants to provide a traffic forecast only “for the year ended March 31, 2006, regardless of whether its preference is for entry in 2005 or in 2006.” American’s novel proposal is based on the unsupported assumption that all interested carriers would apply for both years, but would accept the other year as a fall-back. There is no reason to assume this to be true. And, most fundamentally, as a

matter of sound evidentiary procedure, the Department should have before it relevant forecast data for each of the two separate designation years to be awarded.

5. Confidentiality of DOT Information Responses.


Delta agrees that the Instituting Order should, upon reconsideration, provide that applicants are free to use the traffic data from the information responses in their public exhibits and other docketed submissions -- provided that they do not disclose traffic data from the Information Responses on a carrier-specific basis. To do otherwise would create burdensome and unnecessary complications.

6. Form of Authority.

Delta urges that the newly designated carriers be awarded broad U.S.-China certificate authority, as allowed under the terms of the U.S.-China Air Transport Services Agreement. Such flexibility is an important, bargained-for right, and there is no reason for the Department to artificially restrict the certificate awards in this proceeding.

WHEREFORE, Delta urges that upon reconsideration Instituting Order 2004-9-5 be amended in accordance with the foregoing comments.

Respectfully submitted,

A handwritten signature in cursive script, reading "A. Van der Bellen", written in black ink.


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **ANSWER OF DELTA AIR LINES, INC. TO OBJECTIONS** has been served this 14th day of September, 2004, by electronic mail, upon each of the following persons:

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